

**Special Education Advisory Council  
Cornhusker Hotel  
January 21, 2010**

**SEAC MEMBERS PRESENT:** Brunzman, Davis, Ellis, Goodwin, Gordon, Grossnicklaus, Kemp, Maguire, McMullen, Mercer, Mintken, Proskovec, Randels, Snyder, Stahla, Steinwart, Thode, VanWassenhover, Weber, York

**MEMBERS ABSENT:** Bostic-Frederick, Busse, Hall, Kanter, Kimes

**NDE STAFF PRESENT:** Sherman, Kasl, Wierda, Foley, Huff, Dymacek, Farrand, Coonts, Weatherly, Osberg

**SEAC FACILITATOR:** Bird

*The meeting of the Special Education Advisory Council (SEAC) commenced at 9:00 a.m. Public notification of this meeting was made on the Nebraska Department of Education web site and in the Lincoln Journal Star.*

**INTRODUCTIONS**

Margaret Bitz was welcomed as a future replacement of Kathy Ewing from HHS. The Board of Education will vote on her appointment at their February meeting. Members made introductions.

**COUNCIL BUSINESS**

Open Meetings Law

SEAC Council meetings are open meetings and the Open Meetings Law was posted on the back table.

Approval of November 19, 2009 Minutes

Karen Thode moved and Glenda Davis seconded a motion to approve the November 19, 2009, meeting minutes as submitted.

**VOTE:**       Aye - Brunzman, Davis, Ellis, Goodwin, Gordon, Grossnicklaus, Kemp, Maguire, McMullen, Mintken, Randels, Snyder, Steinwart, Thode, Weber

              Nay - none

              Abstain - Mercer, Proskovec, Stahla, VanWassenhover, York

              Absent - Bostic-Frederick, Busse, Hall, Kanter, Kimes

**The motion carried.**

Approval Of Agenda

The agenda for the day was reviewed and some suggested revisions were made. A motion to approve the agenda as amended was made by Bethany Brunzman and

seconded by Kris McMullen.

**VOTE:** Aye - Brunsman, Davis, Ellis, Goodwin, Gordon, Grossnicklaus, Kemp, Maguire, McMullen, Mercer, Mintken, Proskovec, Randels, Snyder, Stahla, Steinwart, Thode, VanWassenhover, Weber, York  
Nay – none  
Abstain – none  
Absent - Bostic-Frederick, Busse, Hall, Kanter, Kimes

**The motion carried.**

### **NOTICE OF CONFERENCES/MEETINGS**

Kathy Grossnicklaus shared information about upcoming conferences. Additional information can be found on the Office of Special Education website, [www.education.ne.gov/sped](http://www.education.ne.gov/sped).

- Results Matter – Feb 4 & 5 in LaVista.
- Infant Mental Health – March 1 & 2 in LaVista
- Parents Encouraging Parents – March 18-20 in Grand Island
- Autism Spectrum Disorders Conference – April 8 & 9 in Kearney
- Home Visitation Training – Feb 17 & 18, March 16 & 17, and April 20 & 21 at Mahoney State Park

### **DISTRICT DETERMINATIONS**

Beth Wierda spoke about district determinations. Categories of determination that must be used by federal law are “meets requirements”, “needs assistance”, “needs intervention”, and “needs substantial intervention”. Previously, only four indicators were used to make the determination. NDE will start reviewing all indicators to give a better basis for making the district determinations.

Rose Dymacek and Lindy Foley went through the revised determination process using a sample district so that members could have a better understanding of the process. Each district has an ICLD, password protected website where their data is stored.

Based on the determination category a district receives, the state must use appropriate mechanisms as specified in federal regulation. Those mechanisms depending on the determination category must include technical assistance, conditions on funding, corrective action and withholding funds.

- In “meets requirements”, no action is required;
- In “needs assistance” for two consecutive years, NDE will advise the district of available technical assistance and may identify the district as a high-risk grantee and impose special conditions on the district’s use of IDEA funds;
- In “needs intervention” for three or more consecutive years, NDE will require the district to prepare a corrective action plan and may withhold funds in part or in whole;
- In “needs substantial intervention” NDE must withhold in part or in whole any further payment of IDEA funds.

In Nebraska’s latest determinations, there were no districts in the “needs

intervention" or "needs substantial intervention" categories. Fourteen districts were in the "needs assistance" category and the rest were in "meets requirements".

NDE, with advice from a stakeholder group, has proposed that a determination score of:

70-100 percent falls into "meets requirements";

60-69 percent falls into "needs assistance";

50-59 percent falls into "needs intervention"; and

49 or below falls into "needs substantial intervention".

Discussion followed regarding the percentages for each category. Most felt realistic spreads should be set to look toward what the future may hold.

Mary Gordon moved that SEAC recommend that NDE consider 0-29% for "needs substantial intervention", 30-49% for "needs intervention", 50-69% for "needs assistance", and 70-100% for "meets requirements". The motion was seconded by Mike Steinwart.

**VOTE:**       Aye - Brunsman, Davis, Ellis, Goodwin, Gordon, Grossnicklaus, Kemp, Maguire, McMullen, Mercer, Mintken, Proskovec, Randels, Snyder, Stahla, Steinwart, Thode, VanWassenhover, Weber, York

*Nay* - none

*Abstain* - none

*Absent* - Bostic-Frederick, Busse, Hall, Kanter, Kimes

**The motion carried.**

### **ANNUAL PERFORMANCE REPORT**

Sara Farrand provided a report on the federally required Annual Performance Report (APR) and a draft copy was shared. Suggestion was given that a glossary of acronyms be added as many are used and the public may not know all of them. The indicators that are under each of the four impact areas were described as well as the format of the APR. Sara described the state's progress in each of the impact areas.

A motion was made by Maggie Maguire and seconded by Kelly Randels to provide SEAC support in the completion and submission of the Annual Performance Report.

**VOTE:**       Aye - Brunsman, Davis, Ellis, Goodwin, Gordon, Grossnicklaus, Kemp, Maguire, McMullen, Mercer, Mintken, Proskovec, Randels, Snyder, Steinwart, Thode, VanWassenhover, Weber, York

*Nay* - none

*Abstain* - none

*Absent* - Bostic-Frederick, Busse, Hall, Kanter, Kimes, Stahla

**The motion carried.**

### **AUTISM SPECTRUM DISORDERS NETWORK**

Annette Wragge from UNL shared information about the Autism Spectrum Disorders (ASD) Network which began in 2002 to help schools across the state with serving

children on the autism spectrum. There are five regional offices across the state. The SEAC ASD Committee meets quarterly to discuss autism issues across the state and is made up of a broad range of members similar to SEAC. Among theories for the increase of the prevalence of autism are: changes in the diagnostic criteria; increase in awareness; recognition that autism may have previously been identified as other disorders; and real increase in numbers due to environmental factors. Discussion was held about the affect of the Medicaid Waiver on school districts and students with autism.

### **PUBLIC COMMENT**

Bethany Brunsman shared that members of the Autism Network in Lincoln voiced a need for physicians to be provided with a DVD on special education basic procedures. They could give the DVDs to parents to watch at their leisure that would describe the special education process that takes place with a school district. Glenda Davis shared that PTI has an audio CD that describes the process. Additionally, sharing information for parents could be pursued through ChildFind.

Glenda Davis shared that PTI is hosting a parent leadership training for parents of children five and younger. PTI is opening an office in south Omaha where there are many Spanish speaking families that they hope to serve with their bilingual staff.

Karen Thode shared that the Autism Action Partnership (AAP) has been holding stakeholder meetings to determine their future focus. Members can contact AAP to provide input.

### **NEBRASKA CHILD COUNT**

Sara Farrand shared Nebraska child count information for children with disabilities. The child count snapshot is officially collected on October 1 of each year. In part, this collection captures the number of children/youth being served in special education, where they are served, and their primary disability category. On June 30 of each year, data is collected on the children who are served throughout the year, including exit, graduation, and transfer information. Eleven different data tables are submitted to OSEP during the year. A data reporting system is in development that will allow users to access the data. SEAC asked for a data chart by age and disability over several years. OSEP publishes states' data at [www.ideadata.org](http://www.ideadata.org). Sara can provide data on specific requests but cannot release any data with numbers below 10 due to confidentiality issues.

### **PARENTS ENCOURAGING PARENTS**

Rose Dymacek, along with PEP parent coordinators, Connie Masten and Ann Figard, shared information about the upcoming Parents Encouraging Parents (PEP) conference. PEP is held once each year and will be in Grand Island this year on March 18 – 20. There is a combination of professional presentations and parent presentations with space for approximately 100 attendees. The purpose of PEP is to bring parents together, explain the grieving cycle, share lessons learned, provide information about the IEP/IFSP, discuss building positive partnerships with school districts, and offer other topics of interest. Registration is free, most meals, and lodging are provided and the conference focuses on feelings, making the conference

unique and beneficial to parents. PEP rules for participation were shared.

### **DUE PROCESS**

Margaret Worth reported on due process in Nebraska. When a complaint comes to NDE, Margaret assigns the case to an impartial contracted hearing officer. The process then proceeds without the involvement of NDE. There have been no cases filed for the 2009-10 school year. Six cases were filed in the 2008-09 school year. The cases involved four school districts out of 254 school districts in the state. Four hearings were held and three decisions rendered in favor of the school districts. One decision is pending. A written report of the cases was distributed. Nebraska remains a state with very low due process activity when compared nationally.

### **LOW INCIDENCE LEGISLATION**

Teresa Coonts shared information about pending legislation in Nebraska that focuses on low incidence disabilities.

*LB706*: is a revision of a bill passed in 2006 that gave the Commission for the Deaf and Hard of Hearing authority to oversee free-lance interpreters. This bill adds language to allow for initial competency assessments for free-lance interpreters. This does not apply to education interpreters unless they want to also do free-lance interpreting.

*LB929*: requires school district to give information to parents of children who are deaf and hard of hearing regarding all placement options for auditory/oral learning and spoken language learning. SEAC commented that this bill only addresses information on one type of language option at locations with specialized programs. Access to information should be considered for all disabilities and for all methodologies. The law may not be the place to address this. Information can be disseminated in ways other than through law. It is already a requirement in Rule 51.

*LB754*: addresses the Blind Person's Literacy Rights and Education Act. The bill involves the IEP process, accessibility to Braille materials and competency assessment for teachers in the area of Braille. It appears that due process provisions in the bill are in violation of Rule 51. It also requires schools to use a Braille clearinghouse rather than providing an option for district to obtain Braille materials.

Karen Thode moved and Bethany Brunsman seconded a motion to recommend that NDE oppose LB929 and LB754. SEAC feels that:

- The focus of information sharing with parents should not be for one disability category or for one treatment methodology.
- State laws are not the place to address information sharing with parents; these issues can be addressed in other formats.
- Passing such laws takes the decision making process about a child's educational plan away from the families and the educational professionals (MDT/IEP Team).
- State laws eliminate flexibility for school districts and families.

**VOTE:**       Aye - Brunsman, Davis, Ellis, Goodwin, Grossnicklaus, Kemp,  
                  Maguire, McMullen, Mercer, Mintken, Proskovec, Randels,  
                  Snyder, Stahla, Steinwart, Thode, VanWassenhover, Weber,  
                  York  
              Nay – none  
              Abstain – Gordon  
              Absent - Bostic-Frederick, Busse, Hall, Kanter, Kimes

**The motion carried.**

Ann Bird will provide NDE with a summary of these SEAC recommendations so that the information can be shared with the State Board at their Legislative Retreat on Monday, January 25, 2010.

**IEP TECHNICAL ASSISTANCE DOCUMENT**

Kathy Huff spoke about the revised IEP technical assistance document. The document will go on the special education website in the next week or two. Printed copies will be provided to SEAC at the next meeting. A sample version was shared.

**RULE 51 REVISIONS**

Beth Wierda shared that a hearing on Rule 51 revisions will be held on February 22, at 1:30 p.m. with video sites in Lincoln, Kearney and Scottsbluff. The major changes in the Rule are resulting from the IDEA regulations such as revocation of parental consent, timely correction of noncompliance, providing Braille materials to students at same time as other students receive their materials, and additions to Planning Region Team membership. NDE hopes to have a new Rule in place prior to May 10 as the federal application for Part B and Part C is due on that date. This would allow Nebraska to get a "fully approved" application.

SEAC took action to support the Rule 51 revisions at their November, 2009 meeting and to provide testimony at the hearing. Ann Bird will draft testimony that can be provided by a member of the SEAC Executive Committee.

The IDEA Parts B and C applications for the next FFY are being prepared and must be on public review for 60 days. It is intended that the public review period would begin around February 22, with copies of the application available at the NDE Special Education offices in Lincoln, Omaha and Scottsbluff.

**ADJOURN**

The meeting adjourned at 3:40 p.m.